

## Rupe, Alan

---

**From:** Rupe, Alan  
**Sent:** Wednesday, March 23, 2016 5:12 PM  
**To:** 'mrmcvay@phillipsmurrah.com'; 'cdketter@phillipsmurrah.com'  
**Cc:** 'lysbeth.george@crowedunlevy.com'; 'judy.morse@crowedunlevy.com'; 'pcolbath@loeb.com'; Probasco, Angela  
**Subject:** Universitas Education, LLC v. Nova Group, Inc.  
**Attachments:** Letter Rupe to George; 1-20-16; Execution of Judgment Against Avon Capit....pdf; Letter Rupe to McVay; Production of Documents; 3-23-16.pdf

Counsel, please see attached. Thanks. alan



**Alan L. Rupe**  
Wichita and Kansas City Managing Partner | Vice Chair  
Employment and Labor Practice  
[Alan.Rupe@lewisbrisbois.com](mailto:Alan.Rupe@lewisbrisbois.com)

1605 North Waterfront Parkway, Suite 150  
Wichita, KS 67206

T: 316.609.7901 F: 316.462.5746 C: 316.304.8573



Admitted in Arkansas, Kansas, Missouri,  
Oklahoma, and Texas

435 Nichols Road, Suite 200  
Kansas City, MO 64112

T: 816.299.4244 F: 816.299.4245

Representing clients from coast to coast. [View our nationwide locations.](#)

EXHIBIT  
9-2

**LEWIS  
BRISBOIS  
BISGAARD  
& SMITH LLP**

ATTORNEYS AT LAW

1605 North Waterfront Parkway, Suite 150  
Wichita, Kansas 67206  
Telephone: 316.609.7900  
Fax: 316.462.5746

ALAN L. RUPE  
DIRECT DIAL: 316.609.7901  
ALAN.RUPE@LEWISBRISBOIS.COM

January 20, 2016

**VIA E-MAIL**

Lysbeth George  
CROWE AND DUNLEVY  
324 North Robinson Avenue, Suite 100  
Oklahoma City, OK 73102  
[lysbeth.george@crowedunlevy.com](mailto:lysbeth.george@crowedunlevy.com)

Re: *Universitas Education, LLC v. Nova Group, Inc.*, W.D. Okla. No. 14-FJ-5

Dear Ms. George:

I am writing in response to your letter dated December 15, 2015 enclosing copies of a number of documents filed or served in the above referenced case ("Oklahoma Action"),<sup>1</sup> which involves the enforcement of an August 12, 2014 judgment entered in favor of Universitas Education, LLC ("Universitas") against several parties including "Avon Capital, LLC" in the United States District Court for the Southern District of New York, Case No. 1:11-cv-1590 ("New York Action"). Although the December 15, 2015 letter is addressed to me, the header on page 2 of the letter identifies "Avon Capital, LLC" as the recipient.

Please be advised that this firm does not represent the judgment debtor in the Oklahoma Action and New York Action—"Avon Capital, LLC," a Connecticut limited liability

---

<sup>1</sup>(1) Clerk's Certification of a Judgment to be Registered in Another District (Docs. 1, 1-1, and 1-2); (2) Motion for Order Requiring Judgment Debtor to Appear and Answer Concerning Property and Assets and for Injunction Forbidding Transfer or Other Disposition of Property (Doc. 6); (3) Order for Avon Capital, LLC to Appear and Answer as to Assets and Injunction Forbidding Transfer or Other Disposition of Property (Doc. 14); (4) Amended Order resetting Hearing on Assets for January 27, 2016 (Doc. 15); (5) Subpoena to Asset Servicing Group, LLC to Appear at Hearing on Assets; (6) Writ of General Execution relating to Asset Servicing Group, LLC (Docs. 11-12); (7) Subpoena to SDM Holdings, LLC to Appear at Hearing on Assets; and (8) Writ of General Execution relating to SDM Holdings, LLC (Docs. 10 and 13).

Lysbeth George  
January 20, 2016  
Page 2

company with an address of 100 Grist Mill Road, Simsbury, CT 06070 ("Avon Capital-CT").<sup>2</sup>

Nor does this firm represent the accountholder for TD Bank, N.A. Account No. 4242774689—"Avon Capital LLC," a Nevada limited liability company with an address of 100 Grist Mill Road, Simsbury, CT 06070 ("Avon Capital-NV"), which received the \$6,710,065.92 in funds that are the subject of the August 12, 2014 judgment entered in the New York Action.<sup>3</sup>

This firm is not authorized to and does not accept service of any documents on behalf of Avon Capital-CT or Avon Capital-NV. Please refrain from sending any documents directed or addressed to Avon Capital-CT or Avon Capital-NV to me or anyone else at this firm.

That said, however, this firm does represent Avon Capital LLC, a Wyoming limited liability company with a business address of 300 1st Stamford Pl Ste 201, Stamford, CT 06902 ("Avon Capital-WY"), in connection with issues related to the Oklahoma Action. Despite the fact Avon Capital-WY was not a party to the New York Action and is a completely separate entity from the judgment creditor, Universitas served Avon Capital-WY's registered agent in Wyoming, Incorp Services, Inc., 1621 Central Ave., Cheyenne, WY 82001, with copies of documents in the Oklahoma Action.

These documents included a copy of the December 3, 2015 order directing the judgment debtor Avon Capital-CT to appear for a debtor's exam and bring an eight-page list of documents. Because Avon Capital-WY is not the judgment debtor and has not otherwise been properly served as a garnishee or in some other capacity in the Oklahoma Action, Avon Capital-WY will not be appearing for the debtor's exam or producing any documents in the eight-page list attached to the December 3, 2015 order.

For the same reasons, Avon Capital-WY objects to any continued or future efforts by Universitas to execute and satisfy the judgment it obtained against Avon Capital-CT on the assets of Avon Capital-WY.

---

<sup>2</sup>That the judgment debtor is Avon Capital-CT is evidenced by documents filed in the New York Action. *See, e.g.*, S.D.N.Y. No. 1:11-cv-1590, Doc. 118-1, page 9 (referring to Avon Capital LLC as a Connecticut corporation).

<sup>3</sup>The evidence submitted by Universitas in the New York Action in support of its judgment against Avon Capital-CT consists of a November 11, 2009 deposit into a TD Bank, N.A. account opened by Avon Capital-NV. *See* S.D.N.Y. No. 1:11-cv-1590, Doc. 216-4, pages 21 and 23-27 (TD Bank, N.A. documents identifying Avon Capital-NV as the accountholder).

Lysbeth George  
January 20, 2016  
Page 3

Please direct any future correspondence to Avon Capital-WY related to the Oklahoma Action or any other issues discussed in this letter to me.

Very truly yours,

A handwritten signature in black ink, appearing to be "A. Rupe", written over a circular stamp or seal.

Alan L. Rupe of  
LEWIS BRISBOIS BISGAARD & SMITH LLP

cc: Judy Hamilton Morse (via email [judy.morse@crowedunlevy.com](mailto:judy.morse@crowedunlevy.com))  
Paula K. Colbath (via email [pcolbath@loeb.com](mailto:pcolbath@loeb.com))  
Melvin McVay (via email [mrmcvay@phillipsmurrah.com](mailto:mrmcvay@phillipsmurrah.com))  
Clayton Ketter (via email [cdketter@phillipsmurrah.com](mailto:cdketter@phillipsmurrah.com))



**LEWIS  
BRISBOIS  
BISGAARD  
& SMITH LLP**  
ATTORNEYS AT LAW

1605 North Waterfront Parkway, Suite 150  
Wichita, Kansas 67206  
Telephone: 316.609.7900  
Fax: 316.462.5746

ALAN L. RUPE  
DIRECT DIAL: 316.609.7901  
ALAN.RUPE@LEWISBRISBOIS.COM

March 23, 2016

**VIA E-MAIL**

Melvin R. McVay, Jr.  
Clayton D. Ketter  
Phillips Murrah  
Corporate Tower  
101 N. Robinson Avenue, 13th Floor  
Oklahoma City, OK 73102  
[mrmcvay@phillipsmurrah.com](mailto:mrmcvay@phillipsmurrah.com)  
[cdketter@phillipsmurrah.com](mailto:cdketter@phillipsmurrah.com)

Re: *Universitas Education, LLC v. Nova Group, Inc.*, W.D. Okla. No. 14-FJ-5

Dear Messrs. McVay and Ketter:

As you know, this firm represents Avon Capital LLC, a Wyoming limited liability company ("Avon Capital-WY"), in connection with issues related to the above referenced case ("Oklahoma Action"), which involves the enforcement of an August 12, 2014 judgment entered in favor of Universitas Education, LLC ("Universitas") against several parties including "Avon Capital, LLC," a Connecticut limited liability company ("Avon Capital-CT"),<sup>1</sup> in the United States District Court for the Southern District of New York, Case No. 1:11-cv-1590 ("New York Action").

In my January 20, 2016 letter addressed to counsel for Universitas Education, LLC ("Universitas") and copied to you as counsel for Asset Servicing Group, LLC, I explained that Avon Capital-WY was not a party to the New York Action and is a completely separate entity from the judgment creditor Avon Capital-CT.<sup>2</sup> I also explained that Avon Capital-WY is a completely separate entity from Avon Capital LLC, a Nevada limited liability company

---

<sup>1</sup>That the judgment debtor is Avon Capital-CT is evidenced by documents filed in the New York Action. *See, e.g.*, S.D.N.Y. No. 1:11-cv-1590, Doc. 118-1, page 9 (referring to Avon Capital LLC as a Connecticut corporation).

<sup>2</sup>A copy of the January 20, 2016 letter is enclosed for ease of reference.

Messrs. McVay and Ketter  
March 23, 2016  
Page 2

("Avon Capital-NV"), which received the \$6,710,065.92 in funds that are the subject of the August 12, 2014 judgment entered in the New York Action.<sup>3</sup>

On March 17, 2016, Asset Servicing Group, LLC and Universitas filed a joint motion for protective order to protect confidential information and records that have been requested by Universitas in a records subpoena issued to and served on Asset Servicing Group, LLC. As a result of the filing of this motion, Avon Capital-WY learned for the first time that Asset Servicing Group, LLC may intend to produce documents to Universitas regarding SDM Holdings, LLC ("SDM") and SDM's assets.

As advised in the January 20, 2016 letter, Avon Capital-WY objects to any continued or future efforts by Universitas to execute and satisfy the judgment it obtained against Avon Capital-CT on the assets of Avon Capital-WY. Avon Capital-WY owns 100% of the membership interests in SDM. Neither Avon Capital-CT nor Avon Capital-NV has any affiliation to or ownership interest in SDM. Consequently, information and documents related to SDM and SDM's assets are not relevant in any respect to the August 12, 2014 judgment entered in the New York Action.

Avon Capital-WY objects to any production of information related to SDM's assets to Universitas because neither Avon Capital-CT nor Avon Capital-NV has any affiliation to or ownership interest in SDM; only Avon Capital-WY does.

Very truly yours,



Alan L. Rupe of  
LEWIS BRISBOIS BISGAARD & SMITH LLP

Enclosure

cc: Lysbeth George (via email [lysbeth.george@crowedunlevy.com](mailto:lysbeth.george@crowedunlevy.com))  
Judy Hamilton Morse (via email [judy.morse@crowedunlevy.com](mailto:judy.morse@crowedunlevy.com))  
Paula K. Colbath (via email [pcolbath@loeb.com](mailto:pcolbath@loeb.com))

---

<sup>3</sup>The evidence submitted by Universitas in the New York Action in support of its judgment against Avon Capital-CT consists of a November 11, 2009 deposit into a TD Bank, N.A. account opened by Avon Capital-NV. *See* S.D.N.Y. No. 1:11-cv-1590, Doc. 216-4, pages 21 and 23-27 (TD Bank, N.A. documents identifying Avon Capital-NV as the accountholder).